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the document, including any accompanying statement, is returned to the sender with a certificate of record.

(4) Notwithstanding anything to the contrary in this section, the Copyright Office reserves the right to refuse recordation of a notice of termination as such if, in the judgment of the Copyright Office, such notice of termination is untimely. Conditions under which a notice of termination will be considered untimely include: the effective date of termination does not fall within the five-year period described in section 203(a)(3) or section 304(c)(3), as applicable, of title 17, United States Code; or the documents submitted indicate that the notice of termination was served less than two or more than ten years before the effective date of termination. If a notice of termination is untimely or if a document is submitted for recordation as a notice of termination on or after the effective date of termination, the Office will offer to record the document as a “document pertaining to copyright” pursuant to § 201.4(c)(3), but the Office will not index the document as a notice of termination.

(5) In any case where an author agreed, prior to January 1, 1978, to a grant of a transfer or license of rights in a work that was not created until on or after January 1, 1978, a notice of termination of a grant under section 203 of title 17 may be recorded if it recites, as the date of execution, the date on which the work was created.

(6) A copy of the notice of termination shall be recorded in the Copyright Office before the effective date of termination, as a condition to its taking effect. However, the fact that the Office has recorded the notice does not mean that it is otherwise sufficient under the law. Recordation of a notice of termination by the Copyright Office is without prejudice to any party claiming that the legal and formal requirements for issuing a valid notice have not been met, including before a court of competent jurisdiction.

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(7) Notices of termination should be submitted to the address specified in § 201.1(b)(2).

(Pub. L. 94–553; 17 U.S.C. 304(c), 702, 708(11))

[42 FR 45920, Sept. 13, 1977, as amended at 56 FR 59885, Nov. 26, 1991; 60 FR 34168, June 30, 1995; 64 FR 29521, June 1, 1999; 64 FR 36574, July 7, 1999; 66 FR 34372, June 28, 2001; 67 FR 69136, Nov. 15, 2002; 67 FR 78176, Dec. 23, 2002; 68 FR 16959, Apr. 8, 2003; 71 FR 36486, June 27, 2006; 74 FR 12556, Mar. 25, 2009; 76 FR 32320, June 6, 2011]

### § 201.11 Satellite carrier statements of account covering statutory licenses for secondary transmissions.

(a) *General.* This section prescribes rules pertaining to the deposit of Statements of Account and royalty fees in the Copyright Office as required by the satellite carrier license of section 119(b)(1) and Section 122(a) of title 17 of the United States Code, as amended by Pub. L. No. 111–175, in order that certain secondary transmissions by satellite carriers for private home viewing be subject to statutory licensing.

(b) *Definitions.* (1) The terms *distributor*, *network station*, *private home viewing*, *satellite carrier*, *subscribe*, *subscriber*, *non-network station*, *unserved household*, *primary stream*, and *multicast stream*, have the meanings set forth in Section 119(d) of title 17 of the United States Code, as amended by Pub. L. No. 111–175.

(2) The terms *primary transmission* and *secondary transmission* have the meanings set forth in section 111(f) of title 17 of the United States Code.

(c) *Accounting periods and deposit.* (1) Statements of Account shall cover semiannual accounting periods of January 1 through June 30, and July 1 through December 31, and shall be deposited in the Copyright Office, together with the total statutory royalty fee or the confirmed arbitration royalty fee for such accounting periods as prescribed by section 119(b)(1)(B) and (c)(3) of title 17, by not later than July 30, if the Statement of Account covers the January 1 through June 30 accounting period, and by not later than the immediately following January 30, if the Statement of Account covers the July 1 through December 31 accounting period.

(2) Upon receiving a Statement of Account and royalty fee, the Copyright Office will make an official record of the actual date when such statement and fee were physically received in the Copyright Office. Thereafter, the Licensing Division of the Copyright Office will examine the statement and fee for obvious errors or omissions appearing on the face of the documents, and will require that any such obvious errors or omissions be corrected before final processing of the documents is completed. If, as the result of communications between the Copyright Office and the satellite carrier, an additional fee is deposited or changes or additions are made in the Statement of Account, the date that additional deposit or information was actually received in the Office will be added to the official record of the case. However, completion by the Copyright Office of the final processing of a Statement of Account and royalty fee deposit shall establish only the fact of such completion and the date or dates of receipt shown in the official record. It shall in no case be considered a determination that the Statement of Account was, in fact, properly prepared and accurate, that the correct amount of the royalty fee had been deposited, that the statutory time limits for filing had been met, or that any other requirements to qualify for a statutory license have been satisfied.

(3) Statements of Account and royalty fees received before the end of the particular accounting period they purport to cover will not be processed by the Copyright Office. Statements of Account and royalty fees received after the filing deadlines of July 30 or January 30, respectively, will be accepted for whatever legal effect they may have, if any.

(4) In the Register's discretion, four years after the close of any calendar year, the Register may close out the royalty payments account for that calendar year, and may treat any funds remaining in such account and any subsequent deposits that would otherwise be attributable to that calendar year as attributable to the succeeding calendar year.

(d) *Forms.* (1) Each Statement of Account shall be furnished on an appro-

priate form prescribed by the Copyright Office, and shall contain the information required by that form and its accompanying instructions. Computation of the copyright royalty fee shall be in accordance with the procedures set forth in the forms. Copies of Statement of Account forms are available free upon request to the Library of Congress, Copyright Office, Licensing Division, 101 Independence Avenue, SE, Washington, DC 20557-6400.

(2) The form prescribed by the Copyright Office is designated "Statement of Account for Secondary Transmissions by Satellite Carriers to Home Viewers."

(e) *Contents.* Each Statement of Account shall contain the following information:

(1) A clear designation of the accounting period covered by the Statement.

(2) The designation "Owner" followed by:

(i) The full legal name of the satellite carrier. If the owner is a partnership, the name of the partnership is to be followed by the name of at least one individual partner;

(ii) Any other name or names under which the owner conducts the business of the satellite carrier; and

(iii) The full mailing address of the owner. Ownership, other names under which the owner conducts the business of the satellite carrier, and the owner's mailing address shall reflect facts existing on the last day of the accounting period covered by the Statement of Account.

(3) The designation "Primary Transmitters," followed by the call signs, broadcast channel numbers, station locations (city and state of license), and a notation whether that primary transmitter is a "non-network station" or "network station" transmitted to any or all of the subscribers of the satellite carrier during any portion of the period covered by the Statement of Account.

(4) The designation "non-network station," followed by:

(i) The call sign of each non-network station signal carried for each month of the period covered by the Statement, and

(ii) The total number of subscribers to each non-network station for each

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month of the period covered by the Statement. This number is the number of subscribers to each non-network station receiving the retransmission on the last day of each month.

(5) The designation "Network Stations," followed by:

(i) The call sign of each network station carried for each month of the period covered by the Statement, and

(ii) The total number of subscribers to each network station for each month of the period covered by the Statement. This number is the number of subscribers to each network station receiving the retransmission on the last day of each month.

(6) The total number of subscribers to each non-network station for the six-month period covered by the Statement multiplied by the statutory royalty rate prescribed in § 258.3 of this chapter.

(7) The total number of subscribers to each network station for the six-month period covered by the Statement multiplied by the statutory royalty rate prescribed in § 258.3 of this chapter.

(8) The name, address, business title, and telephone number of the individual or individuals to be contacted for information or questions concerning the content of the Statement of Account.

(9) The handwritten signature of:

(i) The owner of the satellite carrier or a duly authorized agent of the owner, if the owner is not a partnership or a corporation; or

(ii) A partner, if the owner is a partnership; or

(iii) An officer of the corporation, if the owner is a corporation. The signature shall be accompanied by:

(A) The printed or typewritten name of the person signing the Statement of Account;

(B) The date of signature;

(C) If the owner of the satellite carrier is a partnership or a corporation, by the title or official position held in the partnership or corporation by the person signing the Statement of Account;

(D) A certification of the capacity of the person signing; and

(E) The following statement:

I, the undersigned Owner or Agent of the Satellite Carrier, or Officer or Partner, if the Satellite Carrier is a Corporation or Partner-

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ship, have examined this Statement of Account and hereby declare under penalty of law that all statements of fact contained herein are true, complete, and correct to the best of my knowledge, information, and belief, and are made in good faith.

(18 U.S.C., section 1001 (1986))

(f) *Royalty fee payment.* (1) All royalty fees shall be paid by a single electronic funds transfer and payment must be received in the designated bank by the filing deadline for the relevant accounting period. The following information shall be provided as part of the EFT and/or as part of the remittance advice as provided for in circulars issued by the Copyright Office:

(i) Remitter's name and address;

(ii) Name of a contact person, telephone number and extension, and email address;

(iii) The actual or anticipated date that the EFT will be transmitted;

(iv) Type of royalty payment (*i.e.*, satellite);

(v) Total amount submitted via the EFT;

(vi) Total amount to be paid by year and period;

(vii) Number of Statements of Account that the EFT covers;

(viii) ID numbers assigned by the Licensing Division;

(ix) Legal name of the owner for each Statement of Account.

(2) The remittance advice shall be attached to the Statement(s) of Account. In addition, a copy of the remittance advice shall be emailed or sent by facsimile to the Licensing Division.

(3) The Office may waive the requirement for payment by electronic funds transfer as set forth in paragraph (f)(1) of this section. To obtain a waiver, the remitter shall submit to the Licensing Division at least 60 days prior to the royalty fee due date a certified statement setting forth the reasons explaining why payment by an electronic funds transfer would be virtually impossible or, alternatively, why it would impose a financial or other hardship on the remitter. The certified statement must be signed by a duly authorized representative of the entity making the payment. A waiver shall cover only a single payment period. Failure to obtain a waiver may result in the remittance being returned to the remitter.

(g) *Copies of statements of account.* A licensee shall file an original and one copy of the statement of account with the Licensing Division of the Copyright Office.

(h) *Corrections, supplemental payments, and refunds.* (1) Upon compliance with the procedures and within the time limits set forth in paragraph (h)(3) of this section, corrections to Statements of Account will be placed on record, supplemental royalty fee payments will be received for deposit, or refunds will be issued, in the following cases:

(i) Where, with respect to the accounting period covered by a Statement of Account, any of the information given in the Statement filed in the Copyright Office is incorrect or incomplete; or

(ii) Where calculation of the royalty fee payable for a particular accounting period was incorrect, and the amount deposited in the Copyright Office for that period was either too high or too low.

(2) Corrections to Statements of Account will not be placed on record, supplemental royalty fee payments will not be received for deposit, and refunds will not be issued, where the information in the Statements of Account, the royalty fee calculations, or the payments were correct as of the date on which the accounting period ended, but changes (for example, addition or deletion of a signal) took place later.

(3) Requests that corrections to a Statement of Account be placed on record, that fee payments be accepted, or requests for the issuance of refunds, shall be made only in the cases mentioned in paragraph (h)(1) of this section. Such requests shall be addressed to the Licensing Division of the Copyright Office, and shall meet the following conditions:

(i) The request must be in writing, must clearly identify its purpose, and, in the case of a request for a refund, must be received in the Copyright Office before the expiration of 30 days from the last day of the applicable Statement of Account filing period, or before the expiration of 30 days from the date of receipt at the Copyright Office of the royalty payment that is the subject of the request, whichever time period is longer. A telegraphic or simi-

lar unsigned communication will be considered to meet this requirement if it clearly identifies the basis of the request, if it is received in the Copyright Office within the required 30-day period, and if a written request meeting all the conditions of this paragraph (h)(3) is also received in the Copyright Office within 14 days after the end of such 30-day period:

(ii) The Statement of Account to which the request pertains must be sufficiently identified in the request (by inclusion of the name of the owner of the satellite carrier and the accounting period in question) so that it can be readily located in the records of the Copyright Office;

(iii) The request must contain a clear statement of the facts on which it is based and provide a clear basis on which a refund may be granted, in accordance with the following procedures:

(A) In the case of a request filed under paragraph (h)(1)(i) of this section, where the information given in the Statement of Account is incorrect or incomplete, the request must clearly identify the erroneous or incomplete information and provide the correct or additional information:

(B) In the case of a request filed under paragraph (h)(1)(ii) of this section, where the royalty fee was miscalculated and the amount deposited in the Copyright Office was either too high or too low, the request must be accompanied by an affidavit under the official seal of any officer authorized to administer oaths within the United States, or a statement in accordance with section 1746 of title 28 of the United States Code, made and signed in accordance with paragraph (e)(9) of this section. The affidavit or statement shall describe the reasons why the royalty fee was improperly calculated and include a detailed analysis of the proper royalty calculation.

(iv)(A) All requests filed under this paragraph (h) must be accompanied by a filing fee in the amount prescribed in § 201.3(e) of this part for each Statement of Account involved. Payment of this fee may be in the form of a personal or company check, or of a certified check, cashier's check or money

order, payable to: Register of Copyrights. No request will be processed until the appropriate filing fees are received.

(B) All requests that a supplemental royalty fee payment be received for deposit under this paragraph (h) must be accompanied by a remittance in the full amount of such fee. Payment of the supplemental royalty fee must be in the form of certified check, cashier's check, or money order, payable to: Register of Copyrights; or electronic payment. No such request will be processed until an acceptable remittance in the full amount of the supplemental royalty fee has been received.

(v) All requests submitted under this paragraph (h) must be signed by the satellite carrier owner named in the Statement of Account, or the duly authorized agent of the owner, in accordance with paragraph (e)(9) of this section.

(vi) A request for a refund is not necessary where the Licensing Division, during its examination of a Statement of Account or related document, discovers an error that has resulted in a royalty overpayment. In this case, the Licensing Division will forward the royalty refund to the satellite carrier owner named in the Statement of Account without regard to the time limitations provided for in paragraph (h)(3)(i) of this section.

(4) Following final processing, all requests submitted under this paragraph (h) will be filed with the original Statement of Account in the records of the Copyright Office. Nothing contained in this paragraph shall be considered to relieve satellite carriers from their full obligations under title 17 of the United States Code, and the filing of a correction or supplemental payment shall have only such effect as may be attributed to it by a court of competent jurisdiction.

(i) *Interest.* (1) Royalty fee payments submitted as a result of late or amended filings will include interest. Interest will begin to accrue beginning on the first day after the close of the period for filing statements of account for all underpayments or late payments of royalties for the satellite carrier statutory license for secondary transmissions for private home viewing and

viewing in commercial establishments occurring within that accounting period. The accrual period shall end on the date the electronic payment submitted by a satellite carrier is received by the Copyright Office. In cases where a waiver of the electronic funds transfer requirement is approved by the Copyright Office, and royalties payments are either late or underpaid, the accrual period shall end on the date the payment is postmarked. If the payment is not received by the Copyright Office within five business days of its date, then the accrual period shall end on the date of the actual receipt by the Copyright Office.

(2)(i) The interest rate applicable to a specific accounting period beginning with the 1992/2 period shall be the Current Value of Funds Rate, as established by section 8025.40 of the Treasury Financial Manual and published in the FEDERAL REGISTER, in effect on the first business day after the close of the filing deadline for that accounting period. Satellite carriers wishing to obtain the interest rate for a specific accounting period may do so by consulting the FEDERAL REGISTER for the applicable Current Value of Funds Rate, or by contacting the Licensing Division of the Copyright Office.

(ii) The interest rate applicable to a specific accounting period earlier than the 1992/2 period shall be the rate fixed by the Licensing Division of the Copyright Office pursuant to 37 CFR 201.11(h) in effect on June 30, 1992.

(3) Interest is not required to be paid on any royalty underpayment or late payment from a particular accounting period if the interest charge is less than or equal to five dollars (\$5.00).

[54 FR 27877, July 3, 1989, as amended at 55 FR 49998, Dec. 4, 1990; 56 FR 29589, June 28, 1991; 57 FR 61834, Dec. 29, 1992; 59 FR 67635, Dec. 30, 1994; 60 FR 34168, June 30, 1995; 60 FR 57937, Nov. 24, 1995; 63 FR 30635, June 5, 1998; 64 FR 36574, July 7, 1999; 70 FR 30366, May 26, 2005; 70 FR 38022, July 1, 2005; 71 FR 45739, Aug. 10, 2006; 72 FR 33691, June 19, 2007; 73 FR 29072, May 20, 2008; 75 FR 56872, Sept. 17, 2010]

**§201.12 Recordation of certain contracts by cable systems located outside of the forty-eight contiguous States.**

(a) Written, nonprofit contracts providing for the equitable sharing of